

Exhibit 15

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

- - -
IN RE: ETHICON, INC. : MDL NO. 2327
PELVIC REPAIR SYSTEM :
PRODUCTS LIABILITY :
LITIGATION :
- - -

THIS DOCUMENT RELATES TO ALL CASES

AND VARIOUS OTHER CROSS-NOTICED ACTIONS

- - -
Wednesday, September 11, 2013
- - -

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Videotaped Deposition of DANIEL J. LAMONT
held at Riker Danzig Scherer Hyland Perretti LLP,
Headquarters Plaza, One Speedwell Avenue,
Morristown, New Jersey, on the above date, beginning
at 9:17 a.m., before Kimberly A. Otherwise, a
Certified Realtime Reporter, Certified Court
Reporter, and Notary Public.

- - -
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1 mechanically cut mesh; correct?

2 A Yes.

3 Q And on the right-hand side is laser
4 cut mesh; correct?

5 A Yes.

6 Q And the arrows are pointing out on the
7 bottom left there particles and it has arrows
8 pointing to those little blue particles all over the
9 place; right?

10 A Yes.

11 Q That would be the fraying; correct?

12 A So --

13 Q Or the result of the fraying?

14 A It can be. So the particles can be
15 one result of mesh fraying.

16 Q And the fraying, you can see the mesh
17 in that photo itself, the fraying is how the mesh is
18 coming apart and getting pointy like that, which is
19 creating the particles; correct?

20 MR. HUTCHINSON: Object to form.

21 THE WITNESS: So -- so fraying is a
22 defect, as you look at these pictures -- what's the
23 best way to explain it? It would be -- so if you
24 look at the second mesh in going left to right,
25 fraying would be, you know, those loose ends

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1 starting to come apart so --

2 BY MR. ZONIES:

3 Q Right.

4 A -- no different than like rope fraying
5 or, you know, as you would apply fraying to any
6 other kind of strand. It would just be the edges of
7 it coming apart.

8 Q Like if somebody took a rope and it
9 started to come apart?

10 A Exactly.

11 Q Okay.

12 A So in that picture as the edges of
13 the -- vertical edges start to come apart, that
14 would be the defect of fraying.

15 Q And it shows there an arrow calling
16 that the degradation that happens; correct?

17 A So there is an arrow that's pointing
18 to degradation. I can't speak to exactly what it
19 means in reference to the picture, but, I mean, I
20 can say there's mesh fraying in the picture.

21 Q Okay. And on the right-hand side is
22 the laser cut mesh, the project that you took on,
23 and it doesn't appear to have that degradation or
24 the particles or the fraying; correct?

25 A So it doesn't appear to be frayed and

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1 from the picture it does not appear that there's
2 many or any particles that are displayed.

3 Q And if you go two slides later, you
4 can see actually a bit of a zoom in called "Mesh
5 Degradation." And, again, on the left-hand side is
6 the mechanically cut mesh and it says "Loss of
7 structure," and on the right-hand side is the laser
8 cut mesh "Stretched, but structure remains";
9 correct?

10 A Yes.

11 Q And there you see a degradation
12 essentially in the structure of the mesh from the
13 fraying; correct?

14 A So I mean the title -- you know,
15 again, I'm not an R&D expert so I can't comment all
16 that much on degradation. The slide is entitled
17 "Mesh Degradation," so it appears that these two
18 pictures are pointing out varying degrees of mesh
19 degradation.

20 Q And you know Gene Kammerer; correct?

21 A I do. I've worked with Gene Kammerer.

22 Q General Kammerer's been a long-time
23 employee at Ethicon?

24 A I believe so, yes.

25 Q And he's in R&D, these are his slides.

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1 So you would say that Gene Kammerer knows what he's
2 doing?

3 A Gene Kammerer is an R&D engineer at
4 Ethicon for a number of years.

5 Q So in this slide the LCM on the right
6 side or the laser cut mesh doesn't have the fraying
7 defect that you can see on the mechanically cut
8 mesh; correct?

9 A It doesn't appear to be as prevalent.

10 Q And so let's turn to the last slide,
11 which is called "Summary." It says: In conclusion,
12 it can be stated that the laser cut mesh resists
13 degradation of the knit construction, particle loss
14 and permanent narrowing better than the mechanically
15 cut mesh in these representative samples.

16 That's what that says?

17 A Yes.

18 Q And you would agree that that was the
19 intent and the purpose of the project you worked on,
20 the laser cut mesh project, correct, one of them?

21 A One of them, yes. It was one purpose
22 of the project.

23 (Exhibit No. T-3162 was marked for
24 identification.)

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1 BY MR. ZONIES:

2 Q I'm going to hand you what's been
3 marked as Exhibit 3162. The ETH.MESH number is
4 00526473.

5 A Okay.

6 Q Exhibit 3162 is an e-mail from Allison
7 London Brown in May of 2005. Do you see that?

8 A Yes.

9 Q And she writes -- the subject being
10 "Laser-cut Mesh"; correct?

11 A Yes.

12 Q And she writes in the second
13 paragraph: The basic story here is that the current
14 mesh (mechanically cut mesh) is perceived by some
15 physicians as inferior and we do get a high number
16 of complaints on linting and roping.

17 And linting's the particle loss;
18 correct?

19 A From this e-mail it seems to be. I
20 would anticipate that linting means the particle
21 loss. It's not a term that we often use, quite
22 frankly, but...

23 Q And she actually describes that in the
24 parens, she defines linting as mesh particles
25 falling off; right?

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1 A Yes.

2 Q And then the roping is material
3 stretching to the point of being a string; correct?

4 A Yes, that's her -- that's her
5 explanation in this e-mail.

6 Q And the new material, being laser cut
7 mesh, will dramatically reduce the incidents of
8 linting or fraying or particle loss and should all
9 but eliminate the roping as it stays nice and flat.
10 That's what she wrote; right?

11 A Yes.

12 Q Now, you understand that roping is
13 when the mesh is -- tension is put on the mesh, it
14 sort of balls up into a rope? Is that what you
15 understand that to mean?

16 MR. HUTCHINSON: Object to form.

17 THE WITNESS: So roping to me would be
18 as the mesh is elongated, if there is -- and off the
19 top of my head I don't know what the actual
20 measurement is for the width of the TVT tape. But
21 as you elongate it, the tape narrows. So the
22 narrowing of the tape to me would be the definition
23 of roping.

24 BY MR. ZONIES:

25 Q And we saw that in the pictures;

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1 right? If we turn back to the PowerPoint that we
2 were just looking at, Exhibit 3161, and that first
3 photograph, that mesh on the left-hand side, that
4 mechanically cut mesh, is roped; correct? It got
5 narrower?

6 A It got narrower, yes.

7 Q Right. And that was what she was
8 describing as becoming more and more like a string;
9 correct?

10 A I would infer that's what she's --
11 what she's discussing there.

12 Q Dan Smith is another engineer at
13 Ethicon; correct?

14 A Yes.

15 Q And Dan Smith was involved in the
16 laser cut mesh project with you on some level;
17 correct?

18 A On some level, but he -- I don't
19 believe he was actually an official member of the
20 team, if you will. But I'm sure he was involved at
21 some level, yes.

22 Q He was involved with the TVT SECUR
23 project which used laser cut mesh; right?

24 A He was -- he was a member of the TVT-S
25 team, yes.

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1 (Exhibit No. T-3163 was marked for
2 identification.)

3 BY MR. ZONIES:

4 Q I'm going to hand you what's been
5 marked as Exhibit 3163, ETH.MESH Nos. 01822361. And
6 you see that Exhibit 3163 is an e-mail from Dan
7 Smith dated in October of 2006. And in the middle
8 paragraph he's discussing laser cut mesh. You see
9 where that starts at the end of the first sentence
10 in the middle paragraph "The Laser cut mesh of TVT
11 SECUR"?

12 A Yes.

13 Q Okay. He's saying: The laser cut
14 mesh of TVT SECUR has less potential to cause
15 retention than TVT or TVT-O because the tape will
16 remain flat under the urethra. TVT and TVT-O would
17 curl and rope which reduces the surface area of the
18 mesh under the urethra and therefore increases the
19 pressure in a localized point.

20 That's what Dan Smith wrote about the
21 laser cut and mechanically cut mesh; correct?

22 A That's his statement, yes.

23 Q He says: The localization of
24 pressure -- from the roping of mechanically cut
25 mesh; right?

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1 A That's the thought process in his
2 statement, yes.

3 Q The localization of pressure will
4 increase the potential for retention with TVT and
5 TVT-O and decrease the potential for retention with
6 TVT SECUR.

7 In other words, what he's saying is in
8 his opinion here the roping defect of mechanically
9 cut mesh increases the potential for retention, but
10 because SECUR is going to use laser cut mesh, which
11 lies flatter and doesn't rope, that defect won't be
12 there; right?

13 MR. HUTCHINSON: Object to form.

14 THE WITNESS: So my interpretation of
15 what he's saying here, what I believe he's saying,
16 is the roping defect could potentially result in
17 increases in pressure as in local point and then,
18 therefore, the following statements that he has I
19 think it's a could or potential outcome.

20 (Exhibit No. T-3164 was marked for
21 identification.)

22 BY MR. ZONIES:

23 Q I'll hand you what's been marked as
24 Exhibit 3164. Now, after you -- the laser cut mesh
25 project that you were the head of came to fruition;

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1 correct?

2 MR. HUTCHINSON: Object to form.

3 THE WITNESS: So I wasn't the head of
4 the laser cut mesh project.

5 BY MR. ZONIES:

6 Q Okay. The laser cut mesh project that
7 you were the head quality engineer on, that came to
8 fruition; correct?

9 A Yes, it did.

10 Q And Ethicon began selling laser cut --
11 Ethicon began using the laser cut method to make its
12 TVT family of products; correct?

13 A Some portion of the TVT family of
14 products, yes.

15 Q Right. Ethicon chose to continue to
16 sell the mechanically cut mesh; is that right?

17 A Yes.

18 Q And Ethicon chose to continue to use
19 mechanically cut processes to make its TVT family of
20 products; correct?

21 A Some portion of the family of
22 products, yes.

23 Q And Ethicon chose to do that knowing
24 that the mechanically cut mesh had a fraying defect;
25 correct?

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1 MR. HUTCHINSON: Object to form.

2 THE WITNESS: So, again, through the
3 documents that we've covered, I mean, there is a
4 fraying -- there's the potential for mesh fraying
5 that exists for mechanical cut mesh. It is a
6 potential defect that can exist on that mesh.

7 BY MR. ZONIES:

8 Q And Ethicon chose to continue selling
9 mechanically cut mesh when it knew it had the
10 potential for the roping defect; correct?

11 MR. HUTCHINSON: Same -- same
12 objections.

13 THE WITNESS: There is the potential
14 for roping to occur on the TVT mechanically cut
15 mesh.

16 BY MR. ZONIES:

17 Q And Ethicon chose to keep making that
18 mechanically cut mesh and selling it; correct?

19 A Yes, Ethicon chose to continue to sell
20 mechanically cut mesh.

21 Q And Ethicon chose to continue to sell
22 mechanically cut mesh knowing that it had a roping
23 defect that could cause urinary retention; correct?

24 MR. HUTCHINSON: Object to form.

25 THE WITNESS: So the -- again, the

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1 medical outcomes are a little bit outside of my --
2 my experience and my skill set. And all I can
3 reference is what's inside of these e-mails that Dan
4 Smith is stating. I couldn't and wouldn't want to
5 comment on what the exact medical outcome is of the
6 medical defect other than what Dan Smith has
7 commented in these e-mails.

8 BY MR. ZONIES:

9 Q And that was Dan Smith's comment, that
10 the roping defect could cause urinary retention.
11 And Ethicon -- he's an employee of Ethicon; correct?

12 A Yes.

13 MR. HUTCHINSON: Object to form.

14 BY MR. ZONIES:

15 Q And he -- his opinion, as put in that
16 e-mail, is that the roping can cause urinary
17 retention; correct?

18 A That is Dan -- that was Dan Smith's
19 statement in the e-mail.

20 Q And Ethicon, with Dan Smith knowing
21 that and putting it in an e-mail to numerous people
22 at Ethicon, continued to sell the mechanically cut
23 mesh knowing that it had a roping defect that could,
24 in his opinion, cause urinary retention; correct?

25 MR. HUTCHINSON: Object to form.

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1 THE WITNESS: Again, TVT -- a
2 potential outcome of TVT or a potential result of
3 the TVT mesh could be roping. There's -- there are
4 numerous factors in the use/manipulation of TVT that
5 will result in roping and it is just a potential
6 outcome.

7 BY MR. ZONIES:

8 Q And laser cut mesh fixed that; right?

9 A It -- laser cut mesh as a project, one
10 of the outcomes was to improve upon the roping
11 defect that could be present in TVT.

12 Q And so let's take a look at the
13 pictures again on Exhibit 361 -- 3161. Sorry. On
14 the right is the laser cut mesh; correct?

15 A Yes.

16 Q And Ethicon created this product with
17 you as a quality engineer on that product; correct?

18 A Yes.

19 Q And Ethicon began making all of its
20 TVT products with laser cut mesh; correct? It was
21 available -- I'm sorry. Strike that.

22 All of Ethicon's TVT products were
23 available as laser cut mesh; correct?

24 A I can't testify if all of our TVT
25 products were laser cut mesh. I can testify that of

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1 the codes that were part of the TVT laser cut mesh
2 project that I was a part of, yes, but I can't say
3 for certain if all of our TVT products are available
4 in laser cut.

5 Q TVT Retropubic was available in laser
6 cut; correct?

7 A Some portion of codes for TVT
8 Retropubic were available in laser cut.

9 Q As was TVT-O?

10 A That is correct.

11 Q And TVT-S was only laser cut?

12 A I don't have a large knowledge base on
13 TVT-S, but I believe TVT-S was laser cut, yes.

14 Q So -- but on the left-hand side is the
15 old cutting, the mechanically cut mesh with the
16 degradation defect, the particles floating around,
17 the stretching, the fraying, and the roping.
18 Ethicon chose to continue to sell that product on
19 the left-hand side and allow that product on the
20 left-hand side to be implanted into women's bodies
21 with all of those defects; correct?

22 MR. HUTCHINSON: Object to form.

23 THE WITNESS: Again, TVT by itself,
24 these defects are not necessarily present. There is
25 numerous ways and methods by which TVT is used,

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1 implanted, manipulated that potentially could lead
2 to one of these outcomes that you see in this
3 degradation particle stretching. There are numerous
4 other factors that are involved in utilization of
5 TVT that potentially get you to this defect, and I
6 will say potentially get you to this defect. By
7 default TVT does not have these defects present.
8 There are circumstances and other mitigating factors
9 involved in the use of TVT that potentially result
10 in one of these -- one of these defects.

11 MR. ZONIES: Move to strike as
12 nonresponsive.

13 BY MR. ZONIES:

14 Q Mr. Lamont, my question is very
15 simple. It's a yes or no question. On the
16 left-hand side is mechanically cut mesh. And on
17 this slide by Gene Kammerer, an Ethicon R&D
18 engineer, it shows degradation, particle loss,
19 stretching, roping, and fraying.

20 And my question to you is: Despite
21 having created laser cut mesh on the right-hand side
22 without all of those problems, Ethicon chose to
23 continue to sell mechanically cut mesh so that it
24 could be implanted in women's bodies; is that
25 correct?

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1 MR. HUTCHINSON: Object to form, been
2 asked and answered also.

3 THE WITNESS: Again, the mesh itself
4 is not -- the mesh itself is not defective. These
5 are potential outcomes that occur in the use of the
6 mesh in the procedure. So characterizing the mesh
7 as being sold with defects I don't believe is a true
8 statement.

9 MR. ZONIES: Move to strike as
10 nonresponsive.

11 BY MR. ZONIES:

12 Q My question is about whether or not
13 Ethicon chose to continue to sell mechanically cut
14 mesh. Did Ethicon continue to sell this mesh on the
15 left-hand side of this picture, mechanically cut
16 mesh?

17 A Yes.

18 Q Ethicon chose to continue to sell this
19 mechanically cut mesh despite knowing that it had
20 the potential for degradation, particles floating
21 around in women's bodies, stretching, and roping;
22 correct?

23 MR. HUTCHINSON: Object to form.

24 THE WITNESS: With the potential, yes.
25 (Exhibit No. T-3165 was marked for